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JAN 07 2010

In re Application of :
He et al. :
Application No. 10/714,471 : ON PETITION
Filed: November 15, 2003 :
Attorney Docket No. 9096-14 :

This is a decision on the petition, filed October 22, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). Accordingly, a reply was due on or before December 18, 2007.

Petitioner states that a timely reply was mailed via certificate of mailing on December 13, 2007, which included the following papers: 1) an Appeal Brief and 2) a \$255.00 check. On February 27, 2009, a copy of the previously mailed correspondence, which bears a certificate of mailing dated December 13, 2007, which would have rendered the reply timely if received, was resubmitted.

The file record does not include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

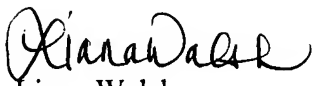
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply received on February 27, 2008 will be accepted in place of the reply shown to have been mailed on December 13, 2007.

The \$270.00 petition fee submitted concurrently with the instant petition is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 3743 for appropriate action in the normal course of business on the reply received in February 2008.

A handwritten signature in black ink, appearing to read "Liana Walsh", written in a cursive style.

Liana Walsh
Petitions Examiner
Office of Petitions